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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/681,266	03/12/2001	Steven C. Miller	13032US01	8546

23446 7590 05/06/2004

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EXAMINER
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LEWIS, MICHAEL A

ART UNIT	PAPER NUMBER
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2655

DATE MAILED: 05/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/681,266

**Applicant(s)**

MILLER, STEVEN C.

**Examiner**

Michael A Lewis

**Art Unit**

2655

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 2/12/04
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 05.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Drawings***

1. The drawings were received on 2/12/04. These drawings are Fig 1, Fig. 2 and Fig 3.

### ***Specification***

2. The substitute specification filed 2/12/04 has been entered and it does conform to 37 CFR 1.125(b) and (c).

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:


A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 1 – 4, 6 – 10, 12 – 17, 19 – 21 & 23 – 24 are rejected under 35 U.S.C. 102(e) as being anticipated by Greenberg (US65614201).

Regarding claims 1, 13, 14, 20, 21, 23 & 24, Greenberg discloses a control interface, system and method that uses:

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- 
- a. A microphone for receiving verbal commands from an operator (Col 3, Line 35; Fig 19 (500)).
  - b. A system control and <sup>speech</sup> recognition processor receiving said verbal command from said microphone and assigning a function to an input console in response to said verbal command (Col 3, Lines 40 – 45; Fig. 19 (510, 520)).
  - c. An input console controlling said function assigned *[assigning among a plurality of input consoles is equivalent to selecting]* to said input console when activated by said operator (Fig. 19(530)).

Regarding claims 2 & 15, Greenberg discloses the ability to acquire and display medical images (Fig. 8 (80,82,84)).

Regarding claims 3 & 16, Greenberg discloses a system control and speech recognition processor that is programmed to recognize predetermined verbal commands (Col 4, Lines 5 – 20).

Regarding claims 4 & 17, Greenberg discloses a system control and speech recognition processor that is programmed to recognize a predetermined function (Col 4, Line 26- 35).

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Regarding claims 6 & 19, Greenberg discloses that the medical imaging device is an ultrasonic medical imaging device (Col 3, Line 55).

Regarding claim 7, Greenberg discloses a system for controlling a function of a medical device, said system including:

- a. A microphone for receiving a verbal command from an operator (Col 3, Line 35; Fig 19 (500)).
- b. A system control and speech recognition processor receiving said verbal command and assigning *[assigning among a many is equivalent to selecting]* a function to an input console in response to said verbal command (Col 3, Lines 40 – 45; Fig. 19 (510, 520)).
- c. An input device initiating said function assigned to said input device when activated by said operator (Fig. 19(530)).
- d. A display for displaying the function assigned to said input device (Col 6, Lines 37 – 50).

Regarding claim 8, Greenberg discloses a system that displays medical images (Fig 8(80,82,84)).

Regarding claim 9, Greenberg discloses a system control and speech recognition processor is programmed to recognize a predetermined verbal command (Col 4, Lines 5 – 20).

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Regarding claim 10, Greenberg discloses said system control and speech recognition processor is programmed to recognize a predetermined function (Col 4, Line 26- 35).

Regarding claim 12, Greenberg discloses that the imaging device is an ultrasonic medical imaging device (Col 3, Line 55).

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

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4. Claims 5, 11, 18, 22 & 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Greenberg (US65614201) in view of Wang et al. (US6646541).

Regarding claims 5, 11, 18, 22 & 25, Greenberg does not explicitly disclose the use of a foot switch to control the system control and speech recognition processor or vice versa. However, Wang et al. teach the use of a foot pedal (Col 2, Lines 37 - 40). The use of foot pedals/switch is commonplace in hands-free environments including the medical environments.

Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to ~~use a foot control to~~ modify Greenberg with foot control as taught by Wang et al. since it would have been beneficial to a user in a hands-free environment to use a foot controlled switch.

### Conclusion

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1. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- |      |                |                   |
|------|----------------|-------------------|
| i.   | Yosuda         | (US5974384)       |
| ii.  | Catallo et al. | (US5867817)       |
| iii. | Metzger        | (US20020190946A1) |
| iv.  | Hansen         | (US4776016)       |
| v.   | Meche          | (US6393304)       |
| vi.  | Gortz et al    | (US6477498)       |

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Lewis whose telephone number is 703 305-8730. The examiner can normally be reached on Monday through Friday, 8:30 am – 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Doris To can be reached on (703) 305-4827. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.



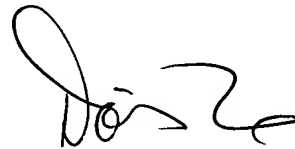
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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Lewis A Michael  
Examiner  
Art Unit 2655

Mal

4/26/2004



**DORIS H. TO**  
**SUPERVISORY PATENT EXAMINER**  
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